

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of May 23, 2013

Members Present

Richard Freeburn
Greg Sirb
Sara Jane Cate

Also in Attendance

James Turner
Dianne Moran

Docket 1338

Applicant: Christopher Cole

Address: 4013 North 6th Street
Harrisburg, PA 17110

Property: 5940 Linglestown Road
Harrisburg, PA 17112

Property Owner: Martin Schoffstall
5790 Devonshire Road
Harrisburg, PA 17112

Interpretation: Section 318- Additional Requirements in the V – Village District. Section 318. B. 6 – Dimensional Standards, Maximum Impervious Surface per Lot. The maximum impervious surface per lot is 80%. The property exceeds the allowable impervious coverage requirement. The applicant proposes to construct a deck on the property.

Grounds: Section 318.B.6

Fees Paid: May 2, 2013

Property Posted: May 14, 2013

Advertisement: Appeared in The Paxton Herald on May 8, 2013 and May 15, 2013.

The hearing began at 7:30 p.m.

Mr. Freeburn swore in Christopher Cole, 4013 N. 6th Street, Harrisburg, PA, 17110, who is the applicant for the application. Mr. Geoff Smith, owner of St. Thomas Roasters, living at 6500 Carmen Court, Harrisburg, PA, 17112, and Bill Bostic, 6204 Elmer Avenue, Harrisburg, PA 17112, a resident of Linglestown were also sworn in.

Mr. Freeburn questioned if Mr. Smith and Mr. Bostic are present to testify as witnesses for or against the application. Mr. Smith and Mr. Bostic answered yes.

Mr. Freeburn swore in Ms. Dianne Moran, Planning and Zoning Officer for Lower Paxton Township.

Ms. Dianne Moran advised that the appropriate fees were paid on May 2, 2013. The proper advertisements appeared in The Paxton Herald on May 8, 2013 and May 15, 2013. The hearing notices were posed on May 14, 2013.

Mr. Freeburn questioned what ordinance pertains to this application. Ms. Moran answered that Section 318- Additional Requirements in the V – Village District. Section 318. B– Dimensional Standards, and Section 318.B.6 - Maximum Impervious Surface per Lot. The maximum impervious surface per lot is 80%. The property exceeds the allowable impervious coverage requirement. The applicant proposes to construct a deck on the property.

Mr. Freeburn noted that it is customary for the Board to enter the application and site plan as Township exhibits. He questioned Mr. Cole if he had any objection to doing so. Mr. Cole answered no.

Mr. Freeburn requested Mr. Cole to explain why this variance should be granted.

Mr. Cole noted that The Gathering Place in Linglestown is designed to be a place in the community where people can grow together. He noted it is not a business, and does not make any money. He noted that it is designed for people in the community to get to know who each other are, and grow together as a community. He noted that he prepared a letter to keep his thoughts together, but the reason he wants the deck is because it is a very small house.

Mr. Cole explained that he was speaking to the president of the Linglestown Area Community Association (LACA), who told him that it was the fourth house built in Linglestown. He noted that it is very small house and he wants to build the deck in the back for a couple of reasons. He noted that backyard is very uneven, not level and unusable ground. He noted that the land from the back door to the parking lot is uncomfortable to stand on since it is so lumpy. He noted that he wants a place where people can come together and grow and get to know each other.

Mr. Cole noted, when people ask him what he does, he says that he tries to learn who his neighbors are. He noted if you ask most people if they can name the four neighbors that live on either side of them; nine out of ten people cannot do that. He noted that we have an entire Village of Linglestown that struggles with this and he is trying to meet these people and build relations with them so they can build relationships with one another.

Mr. Freeburn noted that Mr. Cole indicated that the property is extremely small, is that correct. Mr. Cole answered that it is a three bedroom house, but he only utilizes the bottom floor to have people come and meet and sit down and talk and gather. He noted that it is a small place to do that.

Mr. Freeburn questioned Mr. Cole if he was going to construct the deck out of wooden boards. Mr. Cole answered yes, pressure treated boards.

Mr. Freeburn noted that he recalled having applicants who have proposed building materials that allowed water to filtrate through, for example, the Periodonist on Linglestown Road, across from the Blue Ridge Country Club. He explained that they put a parking area behind the business and used the types of pavers that have holes in them for water to go through. He questioned Ms. Moran if that is impervious. Ms. Moran noted that the deck structure is considered impervious. Mr. Freeburn questioned, even though water can go through the cracks in the boards, is it considered to be impervious. Ms. Moran answered yes.

Mr. Sirb questioned what zoning district this is. Ms. Moran answered that it is the Village District. Mr. Sirb questioned what a Village District is. Ms. Moran answered that it is attached to the paperwork that was part of the packet that is covered by Section 318. She noted that the Village has its own special zoning and requirements. Ms. Moran noted that it is a new zoning district that was created in 2006.

Mr. Turner noted that we have had a couple of variances in the Village but they have all been for Mr. Schoffstall's properties. Mr. Freeburn noted that he needed a variance for when he put the deck on the church across the street and Mr. Smith needed one for the St. Thomas Roasters for their sign.

Mr. Sirb noted that this is not a business and it is not a residence. Mr. Cole explained that he is funded by the New Hope Church, which is a local church located a mile from The Gathering Place. He noted that the idea was to take the church outside of the building that people gather on Sunday and deliver to the community seven days a week as a gathering place. He explained that the building will be funded by donations sponsored by the church and a company, Aim Adventures Missions for the Worldwide Missions that he has been affiliated with by doing missions in Africa for the last 20 years. He noted that everything he does is funded by donations, reaching out to friends, family and neighbors to support the program and building. He explained that the church picks up the slack which currently is a lot but is slowly getting smaller.

Mr. Sirb questioned if anyone lives at the facility. Mr. Cole answered, not at this time, but he has two missionaries that he would like to hire as unpaid interns to live there and do maintenance on the house and to be available for people in need if they come by when the place is not typically open. He noted that currently he is only running two sessions, Tuesdays and Saturdays doing a worship service which is relaxed and non denominational to welcome all people from different nations to come and share the gospel. He noted on Saturday nights, he runs a coffee house style worship and they give away Mr. Smith's coffee. He noted that Mr. Smith provides it to the church at a very good price so that he can welcome people and mingle.

Ms. Cate questioned if Mr. Cole plans to improve the appearance of the building. Mr. Cole answered absolutely yes, noting that he has painted and remodel the inside of the building and plans to power wash the outside of the building. He explained that he has planted 30 to 40 plants in the past few weeks and the deck would beautify the backyard. He noted from the back door to the parking area there is a 3.5 foot drop and it is lumpy and very little grass grows there. He noted that it would be a nice wood deck with a railing around it and it would be very clean.

He noted that he is planning to clean up the area.

Ms. Cate questioned why the deck was already started. Mr. Cole answered that he was told that he would not need a permit as the deck would be pervious and not count as impervious cover. He noted that he spoke with Bill Hornung and he told him that he would not need a permit for the deck. He apologized for what occurred and when he started building the deck using volunteers from Keystone Correctional Services, they worked for two days until Mr. Slatt from the Township told him to stop the work. He noted that it led him to file for a variance.

Mr. Freeburn noted that it was a fair enough mistake, noting that he was under the same impression and that is why he asked the question if a deck was impervious as the water goes through the boards of the deck. Mr. Cole noted that the ground, other than the area where the post goes into it, would be untouched. He explained that the back door area was sagging dramatically, and he installed new supports to further support the house.

Ms. Cate noted that she walked to the back of the property and had trouble stepping over some things to get to the back area. She questioned if he would be installing a walkway. Mr. Cole noted that part of the deck plan is a fully accessible handicap ramp as well, so the house and deck would be fully accessible. He noted that he had to redo the back door as it was an inch too small to make the wheelchair requirement. He noted that the entire back door will be replaced as well. He noted that he had been in a wheelchair and knows the frustrations of being stuck in a wheelchair.

Mr. Freeburn questioned if Mr. Cole was planning on putting a roof over the deck. Mr. Cole answered no.

Mr. Freeburn questioned what he was doing with the lighting. Mr. Cole answered that he plans to do lighting, for it to be well lite but adjustable as well; therefore, the current plan is for every post which is approximately every six or eight feet, to have a light that will be on a dimmable switch so as not to provide too much light. He noted if someone showed up at night and had to use the back door they would have enough light to access the deck.

Ms. Cate noted that the only entrance for handicap accessibility would be out the back. Mr. Cole answered that was correct as he looked at trying to install a ramp at the front door but he would have to cross property lines to get the proper slope for the deck.

Mr. Freeburn questioned Mr. Geoff Smith if he had anything to say. Mr. Smith answered that Mr. Cole made a presentation to the Linglestown Merchant's Association on what he was planning to do. He noted that he has used his indoor facility for a staff meeting since his place is small and there are no private areas to discuss staff issues. He noted that it is a little difficult to shout over the sounds of customers and the traffic. He noted that the deck was a great idea. He noted that Mr. Cole can provide things that other businesses could not provide, a space for people to gather. He noted that anything that brings people together into the Village to help the businesses is good for him. He noted that the concept seems great and the fact there is a deck on the back would be a plus to him.

Mr. Bill Bostic noted that he participated in a number of events at The Gathering Place, and Mr. Cole and the people are doing a good job and have a potential to provide a good service for the community. He noted on a practical level, the Village has quite a few properties that are fully covered in impervious materials, such as the fire hall parking lot and Murphy's Place at the Square, noting that the twin retail buildings across the street from this property have a building and parking lot that goes down a slope into a drainage area and none of these conditions exist on this property. He suggested that those issues do not seem to be the case for this property.

Mr. Sirb noted that it would not change the characteristics of the neighborhood. Mr. Bostic agreed. Mr. Freeburn noted when he looked at the property, it looked like there was a lot of pervious area around it such as the fields behind in the alley and it would be a different situation if this would be the last pervious spot that you have in the area. He noted that it would be different if by covering over the land, the water would have no place to go but to run into all the stormwater systems and overload it. He noted that it is a tiny property in a postage stamp area and even thought the Township treats a deck as impervious; the slates between the boards allow the water to fall down into the ground below. He noted that it will not be like a pavement.

Mr. Bostic noted that over the last seven to eight years he has been very active in the community and around the Village he has heard no negative comments about The Gathering Place.

Mr. Sirb questioned what to call this as it is not a commercial building and he questioned if it was being treated as a residence. He questioned if it became a business, would the amount of impervious coverage change. Ms. Moran answered no. Mr. Sirb noted that it would stay for what is in the Village District. Ms. Moran answered that was correct.

Mr. Freeburn questioned if anyone in the audience wished to be heard on this application. No response was provided.

Mr. Freeburn noted that the Board has 45 days to render a decision and he questioned if a member of the Board wished to do so at this time.

Mr. Sirb made a motion to accept Docket 1338 as presented. Ms. Cate seconded the motion. Mr. Turner conducted the following roll-call vote: Mr. Sirb, aye; Mrs. Cate, aye; and Mr. Freeburn, aye.

The hearing ended at 7:20 p.m.

Respectfully submitted,

Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
CHRISTOPHER COLE : DOCKET NO. 1338

DECISION GRANTING VARIANCE

The applicant seeks a variance from impervious lot coverage requirements. A hearing on the application was held on May 23, 2013.

Facts

1. The applicant and tenant of the property in question is Christopher Cole of 4013 North 6th Street, Harrisburg, Pennsylvania. The property is owned by Martin Schoffstall of 5790 Devonshire Road, Harrisburg, Pennsylvania 17112.

2. The property in question is located on the north side of Linglestown Road and consists of a rectangular parcel with 40 feet of frontage on Linglestown Road. The parcel is in the Village Zoning District.

3. The property is improved with a single family dwelling known as 5940 Linglestown Road. The majority of the back yard is paved for parking.

4. The applicant proposes to erect a deck to the rear of the existing dwelling. The property is currently being used as a community gathering place as a church outreach to the community. The rear yard is uneven and sloped and not readily usable. The deck will allow outdoor gatherings in a safe area and will improve the handicap accessibility of the property.

5. In addition to the applicant, a resident and a business owner in the neighborhood appeared before the Board. They testified in favor of the application and indicted that the project had the support of the village merchants association.

6. Notice of the hearing was posted and advertisement made as required by the ordinance.

Conclusions

1. Article 318.B.6 of the ordinance limits impervious coverage in the Village District to 80%. The proposed project would violate this section of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property in question is burdened by a hardship not created by the owner consisting of its limited lot area. This hardship is further compounded by the irregular and sloped back yard which severely limits the useable area.

4. Granting the variance to erect the deck will not alter the essential character of the neighborhood nor impair surrounding property values. The area is intensively developed and similar deviations from the zoning regulations are common in the area. The overall project will improve the appearance of the building and will be a community asset.


Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is

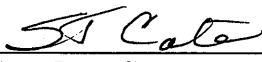
hereby granted allowing the development of a deck in the rear of the property in strict conformity with the plans and testimony submitted to the Board.

Date: 6/27/13

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD


Richard E. Freeburn

Gregory P. Sirb


Sara Jane Cate